IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

JUDGMENT
IN
1. S.B. Criminal Jail Appeal No.356/2004

1. Isab @ Yusuf S/o Kushal Khan
2. Ashok Kumar S/o Jagmal Singh
3. Faiyaz @ Faiyaz Ahmed
S/o Hazi Abdul Hamid
...Accused-Appellants
Versus
State of Rajasthan through P.P.
...Respondent

2. S.B. Criminal Appeal No.355/2004

Idris S/o Mohammad Hanif
...Accused-Appellant
Versus
The State of Rajasthan through P.P.
...Respondent

3. S.B. Criminal Appeal No.478/2004

Hakimuddin S/o Noor Mohammad
...Accused-Appellant
Versus
The State of Rajasthan through P.P.
...Respondent

4. S.B. Criminal Jail Appeal No.357/2004

1. Hakimuddin S/o Noor Mohammad
2. Riyaz Ahmad S/o Hazi Abdul Hamid
3. Idris S/o Mohammad Hanif
...Accused-Appellants
Versus
The State of Rajasthan through P.P.
...Respondent

5. S.B. Criminal Appeal No.477/2004

1. Riyaz Ahmed S/o Shri Hazi Abdul Hamid
2. Faiyaz @ Faiyaz Ahmad
S/o Shri Hazi Abdul Hamid
...Accused-Appellants

Versus
The State of Rajasthan through P.P.
...Respondent

Date of Judgment :::: 4th of January, 2007

PRESENT
Hon'ble Mr. Justice Narendra Kumar Jain

Shri M.P. Khandelwal, Amicus Curiae
Shri Biri Singh, Counsel for accused-appellant Hakimuddin
Shri Mahendra Goyal, Counsel for for accused-appellant Riyaz Ahmed and Faiyaz @ Faiyaz Ahmed
Shri Arun Sharma, P.P., for the State

By the Court:-

These five appeals, on behalf of six accused-persons, namely, Isab, Ashok, Faiyaz, Idris, Hakimuddin and Riyaz, are directed against the common order dated 27th of February, 2004, passed by the District & Sessions Judge, Jaipur City, Jaipur, in Sessions Case No.97/98, therefore, they are being disposed of by this common order.

Accused Isab, Ashok Kumar and Faiyaz have preferred joint appeal through Superintendent, Central Jail, Jaipur. Accused Hakimuddin has preferred two appeals; one through the Superintendent, Central Jail,Jaipur, and another through Advocate.

The learned trial court convicted and sentenced

each accused-appellants under Section 3(1)(c) of the Official Secrets Act, 1923, to seven years rigorous imprisonment.

The learned counsel for the accused-appellants vehemently argued the appeal on behalf of the accused-appellants on merits, and, during the course of arguments, also read/referred the statements of the prosecution witnesses as well as other documentary evidence, but, in view of the overwhelming evidence produced on behalf of the prosecution, the learned counsel for the accused-appellants, during the course of arguments, did not challenge the order of conviction of the accused-appellants passed by the trial court and, in my considered view, the learned counsel for the accused-appellants are right in not challenging the order of conviction passed by the learned trial court in view of the prosecution evidence available against the accused-appellants to connect them with the crime in the present case. However, the learned counsel for the accused-appellants contended that most of the accused-appellants have already remained in jail for more than six years except accused Isab, who has also remained in jail for about four years and five months, therefore, their sentence of imprisonment may be

reduced from seven years to a period of sentence of imprisonment already undergone by them.

According to the learned counsel, the accused-appellants have already remained in custody as follows:-

S.No.	***Name of Accused***	***Period of sentence already undergone (Approximate)***
1.	Isab @ Yusuf S/o Kushal Khan	4 years 5 months 23 days
2.	Ashok Kumar S/o Jagmal Singh	6 years 7 months 4 days
3.	Hakimuddin S/o Noor Mohammad	6 years 4 months 14 days
4.	Riyaz Ahmed S/o Shri Hazi Abdul Hamid	6 years 3 months 14 days
5.	Faiyaz @ Faiyaz Ahmad S/o Shri Hazi Abdul Hamid	6 years 3 months 14 days
6.	Idris S/o Mohammad Hanif	6 years 1 month 25 days

So far accused-appellants, namely, Isab, Hakimuddin, Riyaz Ahmad, Faiyaz Ahmed and Idris, are concerned, their sentence of imprisonment was suspended by this Court in view of period of imprisonment already undergone by them and at present they are on bail.

Learned Public Prosecutor, appearing on behalf of the State, contended that the learned trial court rightly convicted and sentenced the accused-appellants and no interference should be made in the order of the trial court. However, he has not disputed that the accused-appellants have already undergone the sentence of imprisonment, as per the details given by the learned counsel for the accused-appellants, which have been mentioned above.

I have considered the submissions of the learned counsel for the parties and also minutely scanned the impugned judgment as well as the record of the trial court.

In view of the fact that the learned counsel for the accused-appellants did not press the appeals on merits and confined their arguments to reduce the sentence of imprisonment of the accused-appellants to a period of imprisonment already undergone by them, it is not necessary to refer and discuss the facts and evidence of the present case.

The only question involved in the present case is about reduction of sentence of imprisonment of the accused-appellants from 7 years awarded by the trial court to a period of imprisonment already undergone by them, as per the details given above.

The case relates to the year 1998 and no minimum sentence has been prescribed under Section 3 (1)(c) of the Official Secrets Act, 1923. The accused-appellants have already remained in jail for about 6 years and 4 months except accused Isab, who has also remained in custody for about 4 years 5 months 23 days. I have considered the charge framed against the accused-appellants. During the course of arguments I also considered the contradictions in the prosecution evidence, which were pointed out by the learned counsel for the accused-appellants and after considering the entire facts and circumstances of the present case, I am of the view that ends of justice would meet in case the sentence of imprisonment of 7 years awarded by the trial court be reduced to a period of imprisonment already undergone by the accused-appellants.

Consequently, the appeals of the accused-appellants are partly-allowed; their conviction under Section 3(1)(c) of the Official Secrets Act, 1923 is maintained, but their sentence of imprisonment is reduced to a period of sentence of imprisonment already undergone by them.

Accused-appellants, namely, Isab, Hakimuddin, Riyaz Ahmad, Faiyaz Ahmed and Idris, are on bail,

therefore, their bail-bonds are discharged and they need not to surrender. Accused-appellant Ashok Kumar be released forthwith, if his custody is not required in any other case.

(Narendra Kumar Jain) J.

//Jaiman//